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TAGS: [PGOV](#) [PHUM](#) [SOCI](#) [PREL](#) [VM](#)  
SUBJECT: BATTLES LINES DRAWN OVER AN INDEPENDENT BAR ASSOCIATION --  
AND DEMOCRATIC CHANGE -- IN VIETNAM

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CLASSIFIED BY: Kenneth J. Fairfax, Consul General, U.S.  
Consulate General Ho Chi Minh City, Vietnam, Department of  
State.  
REASON: 1.4 (b), (d)

¶1. (C) Summary: HCMC Bar Association President and two-term member of Vietnam's National Assembly Nguyen Dang Trung said that the opportunities for meaningful democratic change in Vietnam are currently "greater than they ever have been before" but cautions that change will come only gradually and that Vietnam's partners -- including the United States -- should not lose patience. Trung's optimism comes in spite of the fact that the Ministry of Public Security (MPS) and Ministry of Justice (MoJ) are actively investigating his law firm and those of approximately 30 other prominent HCMC Bar Association members in retaliation for Trung's successful bid to block a decision by Minister of Justice Ha Hung Cuong to appoint senior CPV insiders with no experience as lawyers to head the newly-formed National Bar Association of Vietnam. A long-term CPV member and former Viet Cong soldier who was once sentenced to death by a military court of the former Republic of (South) Vietnam, Trung is a political insider who is fully committed to seeing an independent, professional lawyers' association established in Vietnam, asserting that the majority of Vietnamese lawyers -- as well as the public at large -- support his position. Trung also maintains that the Vietnamese people want their country to evolve into a democracy and is convinced that continued legal reform, combined with continued economic reform and growth, represent the best path to this goal. END SUMMARY.

#### ROCKING THE NATIONAL BAR ASSOCIATION BOAT

¶2. (SBU) Until recently, each of Vietnam's 64 provinces has had its own Bar Association but there has been no national association. On January 16, 2008, however, PM Dung ordered the MoJ to appoint a "Temporary Council" to head a newly-formed National Bar Association (NBA) and establish its initial operating procedures. The MoJ appointed a former Vice Chief Judge of the Supreme Court, Le Thuc Anh, as chief of the council and former deputy head of the Party's Central Internal Politics Department, Tran Dai Hung, as one of the two deputies. HCMC Bar Association President Trung was appointed as one of the 12 members of the Temporary Council. Trung and numerous backers from the HCMC Bar Association protested the MoJ's decision to appoint Le Thuc Anh and Tran Dai Hung as leaders of the Temporary Council for the association of professional lawyers because neither had ever practiced law. (Note: Despite his appointment as Vice Chief Justice of the Supreme Court of Vietnam, Anh was not a lawyer and has only "political" rather than legal training.)

¶3. (C) In a June 18 letter to Minister of Justice Ha Hung Cuong that was reported in detail in the HCMC-based Phap Luat ("The Law") newspaper, Trung protested that Le Thuc Anh was

unqualified to head the NBA because he had never practiced law. Trung pointed out that Anh was only given permission to practice law by the MoJ in March of 2008. In Trung's view, the appointments of Anh and Hung to head up the Temporary Council governing the newly established NBA demonstrated that the MoJ wanted to transform what should be an independent association of professional lawyers into a GVN tool for controlling lawyers. To protest the MoJ decision, Trung resigned his position on the Temporary Council. In a related move, the HCMC Bar Association, which Trung heads, turned down Le Thuc Anh's application for membership. The HCMC Bar Association's rationale for rejecting Anh was that he did not even apply for membership until June 5, the day after he was announced as the head of the Temporary Council running the NBA. While Anh complained that his rejection by the HCMC Bar Association was unfair since he did not break any rules, the ploy was successful in scuttling Anh as head of the Temporary Council. At present, the leadership of the Temporary Council remains undecided.

¶4. (C) Comment: Trung's complaints reflect common practice in Vietnam where "associations" are generally used as methods of control. A writer who is not a member of the official association of writers, for example, cannot be published, just as a notary public who is not a member of the national association of notaries cannot offer services to the public. All such associations are subservient to the national "Fatherland Front," an umbrella group that ensures CPV dominance over all non-governmental organizations. Provincial Bar Associations, however, grew up much more organically after the legal profession was legalized in 1989, as shown by the previous lack of a single National Bar Association. End Comment.

¶5. (C) While Trung and his supporters in the HCMC Bar Association appear to have won the first round in the battle over the future of the NBA, the MoJ and MPS are fighting back by opening investigations into the finances and operations of

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approximately 30 HCMC-based lawyers who backed Trung's position. MoJ officials apparently make little if any effort to conceal that their goal is to find grounds to punish Trung and his supporters, either by removing them from leadership positions in the HCMC Bar Association or by debarring or even arresting them.

While Trung readily admits that he and his friends are under intense scrutiny, he remains remarkably upbeat about the prospects for establishing the NBA as a genuinely independent professional association, maintaining that the vast majority of all lawyers in Vietnam support his position. He is also confident of the level of support within the National Assembly for an independent NBA. "No matter what," Trung concluded, "I will never stop pushing for the National Bar Association to be a fully independent association of professional lawyers."

¶6. (C) Trung attributes the controversy over the NBA to a "cultural divide" between the North and the South. Explaining that both lawyers and a civil court system had been done away with in Hanoi in 1954 and not reconstituted until 1989, Trung said that people in the North simply do not have the habit of turning to the law to resolve disputes. In Hanoi, he said, people facing disputes first knock on their neighbors' doors to garner support and then turn directly to local or regional political officials seeking redress. The idea of going through an impartial court process -- or even that the courts should be separate from the political leaders they now turn to -- is simply foreign to the Northern way of doing things, according to Trung. The South, in contrast, enjoyed a "more or less fully developed civil legal system" prior to 1975. While lawyers and courts were eliminated between 1975 and 1989, Trung said that as soon as the civil legal system reappeared the people of HCMC were ready and willing to make full use of it. This is one reason why provincial bar associations in the South are so much larger and more independent than those in the North. Because the new NBA and its "Temporary Council" were being established by officials from the North, they naturally chose a "Northern approach." The fact that the vast majority of all Vietnamese lawyers are from the the South, Trung adds, means that most

lawyers understand what is really needed and will eventually carry the day on this issue.

#### FROM RULE OF LAW TO DEMOCRACY

¶7. (C) Trung views the establishment of an independent NBA as a key step in the process of building understanding of, and support for, a truly independent judiciary in Vietnam and thus a key stepping stone to eventual democracy. When asked about the level of popular support for democracy, Trung pronounced confidently that there are two things that the Vietnamese people want most of all: economic development and democracy. He added, however, that people must be patient. Vietnamese culture is inherently conservative -- a trait exacerbated by a long history of war -- so most Vietnamese people will refuse to follow or even listen to someone who simply challenges the entire system. To be an effective agent for change in Vietnamese culture, he explained, one must demonstrate overall loyalty to Vietnam and thereby prove that one's intentions are to improve the system rather than to sow chaos by destroying it.

¶8. (C) While he would not put a timeline on Vietnam's future democratic transformation, Trung did offer that despite crackdowns in various parts of society and the pressure that he and his fellow lawyers are under today, he said that conditions are positive, with progress towards democratization better now than at any time in the past. This does not mean, he cautioned, that huge changes will happen overnight. Instead, many small decisions will be made over the next year that will give additional impetus to reform. In addition to increased professionalism in the legal profession, Trung cited economic reform as the key engine behind future democratic reform. What Vietnam needs now, Trung stated, is to finally set aside old attitudes that the State must dominate the economy and instead allow more room for the purely private sector to grow. The people of Vietnam -- and the National Assembly -- realize that both government ministries and state-owned enterprises (SOEs) have proven to be very inefficient tools for promoting economic development whereas the private sector has emerged as the true engine behind economic growth. As the private sector grows, Trung added, democratization will follow.

#### BACKGROUND OF A COMMUNIST REFORMER

¶9. (SBU) Nguyen Dang Trung is a long-time CPV member with stellar revolutionary credentials. One of the reasons he was elected as President of the HCMC Bar Association may well be his wartime credentials plus the fact that he much older and more conservative than most other leading members, thus making him more acceptable to Hanoi and the GVN. While not a Central Committee member, Trung is nonetheless widely viewed as a "senior CPV member," a fact reflected in his status as a National Assembly member.

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¶10. (SBU) Trung said he decided to become a lawyer as an 11-year-old child in Da Nang after watching the movie "Judgment at Nuremberg." He was particularly impressed with the humanism and professionalism embodied in the role of the lawyer assigned to defend the Nazi war criminals. After moving to Saigon in 1963 to attend law school, Trung became deeply disillusioned with the government of South Vietnam and eventually rose to the leadership of a student organization opposing the government. He was arrested and convicted to ten years in jail. After escaping from prison, he was convicted in absentia by an ARVN military court and sentenced to death. After making his way to a "liberated zone," Trung joined the Viet Cong guerillas and the CPV. After the war, he worked for the MPS and later the MoJ until 1989, when the GVN once again allowed lawyers to function as part of the "doi moi" reforms. The day layers were allowed to operate, Trung states proudly, he finally began to practice law. Today, he divides his legal practice between work as a criminal defense attorney and corporate law, in which role he serves a number of international investors. He has two

daughters; the older daughter is married and lives in Australia with her husband and child while the younger daughter is a software engineer resident in San Jose.

COMMENT

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¶11. (C) Nguyen Dang Trung's combination of pride in his Communist Party membership and his desire to bring democracy to Vietnam is not uncommon among officials in HCMC. Numerous CPV members, including senior members of the city's government and even top officials of the Fatherland Front itself, describe themselves as committed Communists who are working towards a more democratic government. Such CPV insiders uniformly stress the need for patience as Vietnam slowly, and not without setbacks, feels its way towards democracy, which they view as both inevitable and desirable. The outcome of Trung's and the HCMC Bar Association's campaign to resist MoJ and MPS pressure and eventually prevail in their quest for an independent National Bar Association will serve as an interesting barometer into how fast the process of change is progressing. End Comment.

¶12. (U) This cable has been coordinated with Embassy Hanoi.  
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